

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 STEVEN CHRISTOPHER GAZLAY,

Case No. 2:18-cv-01788-APG-DJA

4 Plaintiff

ORDER

5 v.

6 SUSAN JACKSON et al.,

7 Defendants

8 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a
9 state prisoner. On October 22, 2019, I issued an order dismissing the complaint with leave to
10 amend and directed plaintiff Steven Gazlay to file an amended complaint within 30 days. ECF
11 No. 14. The 30-day period has now expired, and Gazlay has not filed an amended complaint or
12 otherwise responded to my order.

13 District courts have the inherent power to control their dockets and “[i]n the exercise of
14 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
15 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
16 dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to
17 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-
18 54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*,
19 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order
20 requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
21 (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court
22 apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
23 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424

1 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local
2 rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey a
4 court order, or failure to comply with local rules, the court must consider several factors: (1) the
5 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;
6 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
7 their merits; and (5) the availability of less drastic alternatives. *See Thompson*, 782 F.2d at 831;
8 *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61;
9 *Ghazali*, 46 F.3d at 53.

10 Here, the first two factors (the public's interest in expeditiously resolving this litigation
11 and my interest in managing the docket), weigh in favor of dismissal. The third factor (risk of
12 prejudice to the defendants) also weighs in favor of dismissal because a presumption of injury
13 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
14 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
15 factor (public policy favoring disposition of cases on their merits) is greatly outweighed by the
16 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his
17 failure to obey the court's order will result in dismissal satisfies the "consideration of
18 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*,
19 779 F.2d at 1424. My order requiring Gazlay to file an amended complaint within 30 days
20 expressly stated: "if Gazlay fails to file an amended complaint curing the deficiencies outlined in
21 this order, this action will be dismissed with prejudice for failure to state a claim.." ECF No. 14
22 at 10. Thus, Gazlay had adequate warning that dismissal would result from his noncompliance
23 with my order.

1 I therefore order that this action is dismissed with prejudice based on the plaintiff's
2 failure to file an amended complaint in compliance with my October 22, 2019, order.

3 I further order the Clerk of Court to enter judgment accordingly.

4 Dated: December 11, 2019.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE